

**SANDPOINT PLANNING COMMISSION MEETING  
5:30 P.M. CITY HALL COUNCIL CHAMBERS  
MINUTES OF SEPTEMBER 18, 2012**

**COMMISSION MEMBERS PRESENT:** Cate Huisman, Kathleen Hyde-Bordenave, Collin Beggs, Yuri Simon, Deb Fragoso

**COMMISSION MEMBERS ABSENT:** Tom Russell, Scott Wohlschlager

**STAFF MEMBERS PRESENT:** Planning Director Jeremy Grimm, Planning Assistant Melissa Bethel

Chairman Huisman called the meeting to order at 5:30 p.m.

**Matters from the Public:** None

**Approval of Minutes:**

Commissioner Hyde-Bordenave moved and Commissioner Fragoso second to approve the minutes of September 4, 2012. **Motion passes unanimously.**

**CONTINUED PUBLIC HEARING:**

**CUP07-06 (Gas N’ Go Convenience Store)** – A request by **Sydney Oskoui** to amend an existing Conditional Use Permit for property in the Commercial B zone. The Permit was approved under its prior Commercial “D” zoning to allow two vendor spaces at the southwest corner of the site to be used for the outdoor retail sale of items not customarily incidental to the permitted business use. The Permit includes the condition that no vendor may remain on the property for more than a 30-day period or return within 30 days to resume business on the property. If amended, the Permit would allow an additional two vendor spaces at the north end of the property. The site is located at 830 North Fifth Avenue on the northeast corner of Fifth Avenue and Larch Street, and described as Tax No. 103. less the North 158 feet and Tax No. 194; Tax No. 182; and Tax No. 34 less the East 5 feet, and Tax No. 152, in Section 15, Township 57 North, Range 2 W.B.M.

**Applicant Presentation:**

Oskoui clarified he would like only two vendors 10 X 30 in size on either the south or north side of the property. Oskoui stated he can provide 10 parking spaces on the north side of the property and several others to the south. Oskoui stated he intends the south side of the property would be used for his own purposes. Chairman Huisman clarified the south side is intended to be utilized by the Gas n Go and not individual vendors.

Commissioner Beggs again clarified the applicant is stating only two sites will be utilized on the north end of the property and there will be no vendor sites on the south end. Commissioner Beggs stated the applicant is currently in violation of the CUP and inquired if any conversation happened with the applicant after the meeting of September 4<sup>th</sup> regarding bringing the site into compliance. Oskoui stated he made the decision to bring the vendor to the north side of the site. He stated there are currently only two vendors on site total and the only issue is placement which is what this hearing is

regarding. Grimm explained the applicant is on notice he is out of compliance, however the next step would be to initiate a revocation but the applicant is currently trying to amend his existing CUP, so it was logical this hearing to amend would suffice.

Commissioner Hyde-Bordenave inquired if the applicant intends to use the south end for ancillary sales related to his business. Oskoui stated probably, but will not have vendors. Grimm stated the Commission will need to clarify with the applicant only two vendors total will be allowed on the northern end of the property and no vendors will be allowed on the southern end. In addition the striping as designated on the site plan will be completed and maintained with the duration of the CUP.

Commissioner Beggs inquired if the applicant would be willing to meet the original CUP conditions before establishing vendors. The applicant stated he is willing to comply and explained the reason for allowing vendors on the northern end of the property was because power is available for food vendors to use.

Commissioner Beggs inquired what size vendor space the applicant is requesting for the northern end of the property. Oskoui stated he is requesting 10x30 spaces. Commissioner Beggs inquired what hours of operation the applicant is requesting for the two vendors at the north end. Oskoui stated around 10:00 a.m. to 6:00 p.m. Commissioner Beggs inquired if the applicant would be allowing vendors to live onsite. Oskoui stated no vendors will live onsite. Commissioner Beggs clarified restroom facilities and trash receptacles are available onsite.

Discussion regarding the size of vendor space ensued. Oskoui stated the vendors will be food related. Grimm clarified the applicant is requesting two vending sites of 15x30. Commissioner Beggs inquired when the applicant plans on striping and marking the vendor spaces. Oskoui stated he plans on painting in the spring. Oskoui stated he does not have vendors during the winter.

Chairman Huisman clarified the application for amendment to the original CUP has changed and now is for only a total of two spaces with those spaces moved from the south end of the property to the north end.

Commissioner Beggs inquired how long the applicant is requesting vendors be allowed to continuously stay on site. Oskoui stated two or three months because it is difficult to get set up and start getting a clientele and then have to move for a period of time before coming back. Grimm clarified the conditions state 30 days is the maximum time the vendor can stay. Commissioner Beggs stated the applicant is requesting something different and is seeking clarity. Oskoui stated he would like the vendors to be able to remain on site for 90 days. Staff clarified the Commission could strike existing condition 5 and include proposed condition 9 which clarifies the applicants request to the amount of time vendors can stay onsite.

Grimm explained 23 parking spaces are required for this site and the site plan does not show a total of 23 spaces. Grimm state the Planning Commission can reduce the parking requirements if it feels the parking requirements for this use are excessive. The Commission and Oskoui discussed parking. Oskoui stated he has shown 15 parking

spaces he can stripe and has the room for parking, but does not feel the need to actually stripe 23 parking spaces.

Commissioner Beggs inquired if Oskoui has an issue with hiring a professional to do a site plan. Oskoui stated it costs more money and the parking and vendor areas have to be painted regardless.

\*The Applicant had an emergency phone call and left the meeting.\*

**Chairman Huisman opened the public hearing**

**Public Comment: None**

**Rebuttal: None**

**Chairman Huisman closed the public hearing**

**Discussion:**

Commissioner Beggs inquired what the Commission is deciding. Grimm stated the request is to amend an existing CUP and to relocate existing vendor spaces to the north. Grimm stated the Commission may consider appropriate conditions on the request. He stated the fact the applicant has not produced a professional drawn site plan does not preclude the Commission from moving forward and placing adequate conditions on the request which have to be met before vendors are able to operate on the site.

Chairman Huisman stated the issue is whether the applicant can comply with the conditions of the CUP and should the Commission grant the request for amendment.

Straw Poll on whether the applicant should be permitted the amended CUP:

Commissioner Simon: Based on the Applicant's previous issues of compliance he would deny the request.

Commissioner Hyde -Bordenave: Deny.

Commissioner Fragoso: Commissioner Fragoso stated she would look at the property as it is zoned and would allow the CUP amendment.

Commissioner Beggs: Commissioner Beggs stated he would be open to having two sites on the north as it is a more desirable location. However, only if the Applicant meets the conditions within a certain time frame and very clear conditions.

Chairman Huisman: Chairman Huisman stated she would grant an amendment.

**The Commission agreed 3-2 to consider granting the amendment and discussing conditions related to the request.**

**The Commission agreed to Existing conditions 1-4 as proposed in the staff report.**

Discussion regarding Existing condition #5:

Commissioner Fragoso stated in reality, if the City wants compliance, then allowing vendors through July, August, and September would probably be the most effective. Staff clarified proposed condition #9 has the months without a time limit of days.

Commissioner Hyde-Bordenave stated the period of time should be May through October as stated in proposed condition #9 with 30 days on and 30 days off.

Commissioner Beggs stated the Comprehensive Plan, location, and the BID all need to be considered.

Chairman Huisman stated she would strike existing condition #5 because it increases the odds of compliance. Grimm agreed it is harder to enforce restrictions by days.

Commissioner Fragoso stated allowing vendors to stay longer might encourage them to open up actual businesses in town based on their success during June through September. Grimm suggested the Commission could recommend vendors pay the BID.

Commissioner Hyde-Bordenave stated she would like vendors to take advantage of Lost in the 50's and be able to set up during May.

Commissioner Simon stated he is concerned about what the owner has planned for the south end of the property and during the summer could potentially have his own sales with the vendors on the north end. Grimm stated legally the owner can sale ancillary products not to exceed 25% of his retail space which would be approximately 500 square feet of outdoor sales.

The Commission agreed conditions requiring paying the BID tax and registering the business would be appropriate mitigation to striking condition #5.

The Commission discussed which months should be allowable for vendors.

**The Commission agreed to strike existing condition #5.**

Discussion regarding Existing condition #6:

Chairman Huisman stated the condition reads vaguely and should be clarified for the applicant. Chairman Huisman stated it should be specified how and when the sites are to be marked. Commissioner Fragoso questioned if the 23 required parking spaces need to be designated. Staff referred the Commission to newly proposed condition #7 which clarified striping the vendor locations. Grimm suggested condition #6 be amended to add the words, "in accordance with City Standards." Grimm stated striping the parking and directional arrows will help with traffic flow.

**The Commission agreed to amend existing condition #6 to state, "All directional arrows, 15 parking spaces and vendor sites on north end as shown on the site plan provided by the applicant shall be marked in accordance with City Standards."**

Discussion regarding Existing condition #7:

Commissioner Hyde-Bordenave suggested including the words, "according to site plan" to the staff drafted #7.

**The Commission agreed to modify existing # 7 to state, "The Applicant will be allowed two vending sites total located at the northern end of the property in clearly designated 15 X 30 permanently striped locations as shown on the submitted site plan. All striping is to be maintained year round.**

Discussion of existing condition #8:

Chairman Huisman suggested striking existing #8 due to redundancy.

**The Commission agreed to strike existing condition #8.**

Discussion of proposed condition #9:

Commissioner Fragoso stated she does not agree with allowing vendors to stay until October. Commissioner Hyde-Bordenave stated the billing cycle for BID tax would end in September. Commissioner Fragoso stated 6 months is too long, but is not necessarily concerned.

Commissioner Simon stated he is fine with the dates as presented, however would agree September is a good month to end vendor sales. He stated he would like to encourage vendors to be in place for longer periods of time instead of multiple vendors coming and going continuously.

Chairman Huisman suggested May 1 through September 30 as allowable dates for vendors to be on site.

**The Commission agreed to amend proposed condition #9 to state, “Outdoor sales approved under this permit may occur annually between May 1 and September 30<sup>th</sup>. The approved hours of operation for each vendor will be daily from 10:00 a.m. to 6:00 p.m. Vendor enclosures may remain in their assigned locations, but no on-site camping of vendors will be allowed. All vendors will pay the BID tax.**

**The Commission agreed to leave condition #10 as proposed.**

**The Commission agreed to strike condition #11 as previously discussed and agreed.**

**The Commission agreed to leave condition #12 as proposed.**

**The Commission agreed to add a condition which states, “any violations of this amended CUP will result in an automatic revocation hearing”.**

Commissioner Beggs clarified no camping is included in the conditions. Commissioner Hyde-Bordenave suggested the condition be clarified to state, “Vendor personnel may not stay on site overnight.” Commissioner Simon suggested clarifying between vendor sites and the total property.

**The Commission agreed to clarify the second to last sentence of condition #9 to state, “Vendor personnel may not stay overnight anywhere on the Applicants property”.**

The Commissioners discussed how violations are handled and time frames related to the Applicant coming into compliance with the CUP.

Commissioner Hyde-Bordenave inquired if a packet should be handed out to the vendors which explain the BID tax, business registration and signage requirements. Chairman Huisman stated it may be a good idea, but not in the purview of the approval. Grimm stated the Commission could require the Applicant to give the vendors copies of the CUP conditions. The Commission felt it was not necessary to propose another condition.

**Motion:**

Commissioner Beggs moved and Commissioner Simon second the Sandpoint Planning Commission, after consideration of the criteria and relevant standards of Idaho Code APPROVE the request by Sydney Oskoui to amend an existing Conditional Use Permit for property in the Commercial B zone that was approved to allow two vendor spaces at the southwest corner of the site to be used for the outdoor retail sale of items not customarily incidental to the permitted business use. This amendment will allow those two vendor sites to be relocated in the Northern end of the property. The site is located at 830 North Fifth Avenue on the northeast corner of Fifth Avenue and Larch Street

Based on evidence, records, and testimony, the reasons for approving this request are:

1. Staff has followed the notice procedures applicable to Conditional Use Permits contained in *Idaho Code 67-6512* and *Sandpoint City Code* Title 9, Chapter 9.
2. Based on information presented at the hearing and the placement of limitations through conditions, the application is in compliance with the nine criteria for Conditional Use Permits as outlined in *Sandpoint City Code* §9-9-6 A(3H).
3. The requested Conditional Use Permit is consistent with the overall planning goals and objectives outlined in the Comprehensive Plan.”

Subject to the following Conditions:

1. The clear vision triangle at Fifth Avenue and Larch Street shall remain clear of any structure or merchandise over 3 feet in height. The north boundary of the clear vision triangle shall be striped.
2. Without a portable restroom, any vendor locating on the site shall be limited to the convenience store’s hours of operation. Access to the restrooms in the convenience store must be allowed to employees and customers of the transient uses.
3. All vendors and site are subject to *International Fire Code* review prior to set-up of operation.
4. New vendors must provide after-hours contact information to the Police Department, and shall obtain the required business registration/license.
5. All directional arrows, 15 parking spaces and vendor sites on north end as shown on the site plan provided by the applicant shall be marked in accordance with City Standards.

6. The Applicant will be allowed two vending sites total located at the northern end of the property in clearly designated 15 X 30 permanently striped locations as shown on the submitted site plan. All striping is to be maintained year round.
7. Outdoor sales approved under this permit may occur annually between May 1 and September 30<sup>th</sup>. The approved hours of operation for each vendor will be daily from 10:00 a.m. to 6:00 p.m. Vendor personnel may not stay overnight anywhere on the Applicants property. All vendors will pay the BID tax.
8. Individual vendors may only display signage within the limits of their designated vendor area. Any signage utilized by individual vendors shall be subject to the applicable size and permitting requirements of the Sandpoint Sign Code (*Sandpoint City Code*, Title 8, Chapter 5). Unless affixed to a vendor enclosure or business vehicle, such signage shall not be displayed beyond the approved hours of operation.
9. The entirety of the property shall remain tidy and in a perpetual state of litter free existence. All loose trash, shipping or display packaging, cups and related vending refuse shall be picked up after the close of business each day. Recycle bins shall be located on site and any dumpsters must be screened according to City Code.
10. Any violations of this amended CUP will result in an automatic revocation hearing.

**Motion passes unanimously.**

**Matters from Staff:**

Grimm stated the Commission will continue discussions on Tourist Homes and the CA-3B zone. Chairman Huisman reminded the Commission the next meeting is on October 2. Grimm advised the Commission he will not be available for the next meeting.

**ADJOURNMENT:**

The meeting adjourned at 7:10 p.m.

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/s/  
Chairman Huisman